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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,717	01/02/2001	Cecile Bebot	05725.0826-00	1012

22852 7590 07/28/2003

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
1300 I STREET, NW
WASHINGTON, DC 20005

EXAMINER

ELHILO, EISA B

ART UNIT PAPER NUMBER

1751

DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/750,717

Applicant(s)

BEBOT ET AL.

Examiner

Eisa B Elhilo

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-91 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1 This action is responsive to the amendment filed on May 20, 2003.

2 Objection to claims 1, 38, 55, 61, 64, 74, 77, 80, 83, 86 and 89 is withdrawn, because of
the applicant's amendment. (The claimed formulae are numbered in a consecutive manner).

3 The rejection of claims 1-39 and 41-91 under 35 U.S.C. 103(a) as being unpatentable
over de la Mettrie et al. (US 5,976,195) in view of Grollier et al. (US 4,842,849), is maintained
for the reasons set forth in the previous office action in paper number 12, dated 11/21/2002.

4 The rejection of claim 40 under 35 U.S.C. 103(a) as being unpatentable over de la Mettrie
et al. (US 5,976,195) in view of Grollier et al. (US 4,842,849) and further, in view of Samain
(US 5,538,517), is maintained for the reasons set forth in the previous office action in paper
number 12, dated 11/21/2002.

Response to Applicant's Arguments

5 Applicant's arguments filed on 5/20/2003 have been fully considered but they are not
persuasive.

With respect to the rejection based upon de la Mettrie (US' 195) in view of Grollier (US'
849), Applicant argues that there is no motivation to combine the teaching of the references.

The examiner respectfully disagrees with the above arguments because de la Mettrie (US'
195) as a primary reference teaches a hair dyeing composition comprising at least one cationic or
amphoteric substantive polymer such as a quaternary polyammonium polymer (see col. 7, lines
19-25), which implies that more than one polymer may be used in the dyeing composition. de la
Mettrie also suggests the use of thickeners (conditioners) in the hair dyeing composition (see col.
8, line 4). de la Mettrie further teaches the derivatives of fatty alcohols as a part of anionic

Art Unit: 1751

polymer in which at least one ally ether unit containing a fatty chain is presented (see col. 1, lines 60-62). Grollier (US' 849) as a secondary reference in analogous art of hair dyeing composition teaches the equivalences between the quaternary polyammonium polymers of cyclohomopolymers (cationic polymers) as claimed (see col. 5, formula III) and poly-(quaternary ammonium) compounds (cationic polymers) as claimed (see col. 5, formula IV), thickeners such as stearate or distearate of polyethylene glycol and fatty alcohols (see page 13, lines 25-38). Grollier further, teaches that the use of hair dyeing compositions based on cationic polymers and anionic polymers make it possible in particular to obtain an easy comb-out and a pleasant feel of the hair (see col. 1, lines 14-20). Therefore, both references are in the same art of hair dyeing compositions and, thus, a person of ordinary skill in the art would be motivated to modify the primary reference by incorporating more than one cationic quaternary polyammonium polymer with fatty alcohol components and thickeners as taught by Grollier with a reasonable expectation of success for conditioning (easy comb-out and a pleasant feeling).

With respect to the rejection based upon de la Mettrie (US' 195) in view of Grollier (US' 849) and further, in view of Samain (US' 517), Applicant argues that there is no motivation or suggestion exists to modify the references of de la Mettrie and Grollier by incorporating the uricase enzymes disclosed by Samain.

The examiner respectfully disagrees with the above argument because Samain (US' 517) clearly teaches that enzymes as oxidizing agents are equivalent to hydrogen peroxide (see col. 2, lines 22-23), and, thus, a person of ordinary skill in the art would be motivated to modify the references of de la Mettrie and Grollier by substituting hydrogen peroxide with an enzymatic source for generating hydrogen peroxide as taught by Samain.

Art Unit: 1751

The examiner advised the applicant to provide a data or showing to indicate that the dyeing composition of the claimed invention demonstrates superior and unobvious results over the dyeing composition of the closest prior art of record.

6 **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B Elhilo whose telephone number is (703) 305-0217. The examiner can normally be reached on M - F (7:30-5:00) with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (703) 308-4708. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Application/Control Number: 09/750,717


Page 5

Art Unit: 1751



Elhilo

July 15, 2003



YOGENDRA N. GUPTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700